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92478-9800

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52044

7590

02/14/2008

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EXAMINER

HO, HOANG QUAN TRAN

ART UNIT

PAPER NUMBER

2818

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Amendment

Applicant's amendment, filed on February 4, 2008, is acknowledged. Entry of amendment is accepted and made of record. Currently, claims 35 – 41 are pending in light of the amendment, in which: claim 39 was amended; claims 1 – 34 and 42 – 45 were cancelled; no claim was withdrawn; and no claim was added.

Response to Arguments/Remarks

Applicant's arguments filed February 4, 2008 are acknowledged and are responded as follows.

Applicant's arguments, see pg. 6, with respect to the rejection of claim 38 under 35 U.S.C. § 112, first paragraph have been considered. Applicant directed the Examiner's attention to fig. 14B for support of claim 38. In light of support, claim 39 incorporated subject matters of claims 35 and 38. In view of fig. 14B and related disclosures to thereof, the rejection of claim 38 is withdrawn. However, the Examiner would like to direct Applicant's attention to the restriction requirement of November 26, 2006, to which the Examiner has restricted via Species by distinct figures. Applicant elected Species I, drawn to figs. 1 – 4 and 8 – 13. In view of Applicant's remarks regarding claim 38, claims 38 – 39 are drawn to fig. 14B, for which Species I, figs. 1 – 4 and 8 – 13 do not support, claims 38 – 39 are withdrawn from further consideration

pursuant to 37 CFR 1.142(b). Any further remarks or arguments directed to claims 38 – 39 are therefore irrelevant.

Applicant's remarks, see pg. 7, with respect to the rejection of claim 43 have been fully considered. Applicant has cancelled claims 42 – 45, therefore, rendered associated rejections thereof, moot.

Applicant's remarks, see pg. 7, with respect to certified translations of the priority documents to render rejection of claims by Nagai and its related combinations have been fully considered and have rendered the rejections moot.

Applicant's arguments, see pgs. 7 – 10, with respect to the rejection of the claims by Durocher, Baretz and Baik have been fully considered but they are not persuasive in view of the following reasons.

Applicant traversed Durocher does not provide the structural elements, Baik having different structure to be combined with Durocher, and Baretz does not cure the deficiencies of Durocher and Baik combination. The Examiner acknowledges that Durocher does not fully anticipate the claimed invention as set forth in claim 35. Durocher lacked the details of a multilayer epitaxial structure and a phosphor film covering the multilayer epitaxial structure. Therefore, the Examiner relied on Baik to teach a multilayer epitaxial structure and Baretz for the phosphors.

In response to the combination of Durocher and Baik, the Examiner respectfully disagrees. As set forth on pg. 14 of the previous Office Action, the Examiner noted, "But Durocher does not explicitly provide the details of the multiplayer [*sic*] epitaxial structure...". In other words, what was missing from Durocher is the multilayer epitaxial

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structure details only, not among other elements as Applicant may have misconstrued. Durocher's disclosure, col. 7, lines 30 - 40, teaches one of ordinary skill in the art could provide a GaN containing a p-n junction active layer. The Examiner has cited Baik to teach the orderly formed multilayer epitaxial structure, comprising a GaN containing a p-n junction active layer for which read on the claim limitations in the order of the structure limitations as set forth in claim 35. Therefore, the discussion Applicant has made in regards to Baik are irrelevant, as the Examiner established *prima facie* obviousness of the missing features – multilayer epitaxial structure, that Durocher does not teach explicitly, col. 7, lines 30 – 40, in view of Baik, which is obvious to one of ordinary skill in the art to provide.

In view of the foregoing reasons, the Examiner believes that all Applicant's arguments and remarks are addressed. The Examiner has determined that the previous Office Action is still proper based on the above responses. Therefore, the remaining rejections are sustained and maintained.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on January 31, 2008 was filed after the mailing date of the Final Office Action on October 5, 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Quan Ho whose telephone number is 571-272-8711. The examiner can normally be reached on Monday - Friday, 9 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Loke can be reached on 571-272-1657. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HQH/
Hoang-Quan Ho
Assistant Patent Examiner
February 9, 2008

/Andy Huynh/
Primary Examiner, Art Unit 2818